

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MARIO AURELIO RAMIREZ-RAMIREZ,
Petitioner,

v.

JOHN ASHCROFT, Attorney General,
Respondent.

No. 02-73376

Agency No.
A92-062-794

ORDER

Filed July 7, 2004

Before: Harry Pregerson, Robert R. Beezer, and
Richard C. Tallman, Circuit Judges.

Order; Partial Concurrence and Partial Dissent
by Judge Beezer

ORDER

A majority of the panel has voted to deny the petition for panel rehearing. Judge Pregerson voted to grant the petition for rehearing en banc, Judge Tallman voted to deny the petition for rehearing en banc and Judge Beezer so recommends.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote to rehear the matter en banc. Fed. R. App. P. 35.

The mandate shall issue seven days after entry of this order in accordance with Federal Rule of Appellate Procedure 41(b).

The petition for panel rehearing and the petition for rehearing en banc are **DENIED**.

BEEZER, Circuit Judge, concurring in part and dissenting in part:

I concur in the order of the court except I would direct the clerk to issue the mandate forthwith. We lack jurisdiction to consider the pending petition and there never was any probability of success on the merits which would support a stay. *See Mariscal-Sandoval v. Ashcroft*, No. 02-71925, slip op. at 12-19 (9th Cir. May 28, 2004) (Beezer, J., concurring).

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